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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,255	04/10/2001	Gutman Levitan		7581
7590	11/15/2004			
Gutman Levitan 101 Grove Street, #11 Stamford, CT 06901			EXAMINER PEREZ DAPLE, AARON C	
			ART UNIT 2154	PAPER NUMBER
			DATE MAILED: 11/15/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/829,255

Applicant(s)

LEVITAN, GUTMAN

Examiner

Aaron C Perez-Daple

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This Action is in response to Application filed 4/10/01.
2. Claims 1-6 are presented for examination.
3. This Action is non-Final.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claim 2** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, lines 1-2 recite "retaining each Internet file in said server selection list and therefore repeatedly transmitting the file." However, merely retaining the Internet file does not necessarily imply that the files would be repeatedly transmitted. For clarification, the Examiner suggests deleting the word "therefore."

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. **Claims 1-4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusaba et al. (US 6,510,556 B1) (hereinafter Kusaba) in view of Diwan (US 6,801,936 B1) (hereinafter Diwan).

8. **Examiner's Interpretation:** Although the primary embodiment of Kusaba is directed towards a video server which does not necessarily comprise an Internet server, in col. 9, lines 2-11, Kusaba discloses that the invention may use a single Internet connection (Internet 16, Fig. 5), implemented as a DSL line, for transmitting both the user requests and video data. Therefore, Kusaba teaches that the video server may comprise an Internet server for transmitting Internet files (e.g. video files transmitted via the Internet). In addition, this limitation is further taught by Diwan, Fig. 1, for example.

9. As for claim 1, Kusaba discloses a method of delivery of Internet files in a broadcast manner from an Internet server to Internet clients while minimizing interaction between the server and the clients, comprising the steps of:

at server side, obtaining clients' requests for Internet files via a communication link (col. 5, lines 23-28; step 3, Fig. 3);

composing a server selection list of Internet files containing at least all files requested by clients (title table 103, Fig. 5; col. 3, lines 16-27);

composing a broadcast timetable containing each file of the server selection list with a time and a channel of its transmission via a broadcast medium (schedule table 104, Fig. 5; col. 4, lines 7-56);

transmitting the broadcast timetable via the broadcast medium prior to transmission of any file of the server selection list (col. 4, lines 25-32);

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transmitting each file of the server selection list via the broadcast medium at the time and on the channel specified in the broadcast timetable (col. 5, line 59 – col. 6, line 28);

at client side, receiving said broadcast timetable sent by server via said broadcast medium (col. 4, lines 25-32);

processing user's requests for Internet files against the broadcast timetable (col. 4, lines 7-56; Figs. 4C-F);

determining transmission time and channel of an Internet file requested by user if the file is listed in the broadcast timetable (col. 4, lines 7-56; Figs. 4C-F);

sending a request to server via said communication link for an Internet file requested by user if the file is not listed in the broadcast timetable (col. 5, lines 23-28; step 3, Fig. 3);

downloading each file requested by user at the time and from the channel of its transmission via said broadcast medium (col. 5, line 59 – col. 6, line 28); and

presenting downloaded files to user (col. 9, lines 2-11).

Kusaba does not specifically disclose downloading files of the server selection list from Internet sources. Diwan teaches downloading files of the server selection list from Internet sources for the purpose of delivering bundles of content desired by the user from a variety of sources (col. 1, lines 53-63). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kusaba by downloading files of the server selection list from Internet sources for the purpose of delivering bundles of content desired by the user from a variety of sources, as taught by Diwan above.

10. As for claim 2, Kusaba discloses the method as defined in claim 1; and further comprising the step of retaining each Internet file in said server selection list and therefore

repeatedly transmitting the file via said broadcast medium during a period of time proportional to a number of clients requested the file (col. 6, lines 10-29).

11. As for claim 3, Kusaba discloses a system for transmission of Internet files in a broadcast manner from an Internet server to Internet clients, comprising:

- a receiver coupled with a communication link for receiving clients' requests for Internet files (API and web server 113, Fig. 5; col. 6, lines 33-42);

- a network interface connecting server to the Internet (inherent to web server 113, Fig. 5, for connecting to Internet as shown; col. 6, lines 33-42);

- a multichannel data transmitter (video server 101, Fig. 5, and transmitting apparatus) coupled with a broadcast medium for transmitting files from server to clients in a broadcast manner (col. 3, lines 33-47; col. 9, lines 2-11);

- a request processor (scheduler 105, Fig. 5) coupled to said receiver for obtaining clients' requests for Internet files and composing a server selection list (title table 103, Fig. 5) of Internet files containing at least all files requested by clients (col. 4, lines 7-56);

- a file storage for storing the downloaded Internet files (storage 102, Fig. 5);

- a broadcast timetable manager (scheduler 105, Fig. 5) for scheduling transmission of downloaded files via said multichannel data transmitter and composing a broadcast timetable listing (schedule table 104, Fig. 5) each file of the server selection list with a time and a channel of its transmission (col. 4, lines 7-56); and

- a broadcast control (commander 106, Fig. 5) coupled to said broadcast timetable manager for obtaining the broadcast timetable and coupled to said file storage for obtaining downloaded Internet files, said broadcast control further coupled to said multichannel data

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transmitter for providing transmission of the broadcast timetable prior to transmission of any Internet file listed in the broadcast timetable, and providing transmission of each Internet file at the time and on the channel specified in the broadcast timetable (col. 5, line 59 – col. 6, line 28).

Kusaba does not specifically disclose a download manager for downloading files of the server selection list from Internet sources. Diwan teaches a download manager for downloading files of the server selection list from Internet sources for the purpose of delivering bundles of content desired by the user from a variety of sources (col. 1, lines 53-63). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kusaba by using a download manager for downloading files of the server selection list from Internet sources for the purpose of delivering bundles of content desired by the user from a variety of sources, as taught by Diwan above.

12. As for claim 4, Kusaba discloses the system as defined in claim 3 and further comprising a transmitter coupled with said communication link for transmitting data individually addressed to certain clients (col. 3, lines 48-65).
13. **Claims 5-6** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusaba in view of Wright et al. (US 6,442,598 B1) (hereinafter Wright).
14. **Examiner's Interpretation:** Although the primary embodiment of Kusaba is directed towards a video server which does not necessarily comprise an Internet server, in col. 9, lines 2-11, Kusaba discloses that the invention may use a single Internet connection (Internet 16, Fig. 5), implemented as a DSL line, for transmitting both the user requests and video data. Therefore, Kusaba teaches that the video server may comprise an Internet server for

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transmitting Internet files (e.g. video files transmitted via the Internet). In addition, this limitation is further taught by Wright et al. (US 6,442,598 B1), col. 4, lines 6-11, for example.

15. As for claim 5, Kusaba discloses a system for reception of Internet files transmitted in a broadcast manner from an Internet server to Internet clients while minimizing interaction between the server and the clients, comprising:

- a transmitter coupled with a communication link for transmitting client requests for Internet files to server (modem 124, Fig. 5);

- a channel selector coupled with a broadcast medium for selective reception of Internet files transmitted from server in a broadcast manner (col. 4, lines 7-56; Fig. 4C);

- a receiver (modem 124, Fig. 5) coupled with the broadcast medium for receiving a broadcast timetable transmitted from server, said broadcast timetable listing each Internet file scheduled for transmission with a time and a channel of its transmission (Fig. 4C; col. 4, lines 7-56);

- a broadcast timetable processor coupled to said receiver for downloading the broadcast timetable (col. 3, lines 48-65; col. 4, lines 25-32);

- a user input interface for submitting user's request for Internet files (col. 4, lines 57-63);

- a request manager (Fig. 4C) coupled to said user input interface for identifying Internet files requested by user and also coupled to said broadcast timetable processor for obtaining transmission time and channel of each file requested by user and listed in the broadcast timetable (schedule table 104, Fig. 5), said request manager further coupled to said



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transmitter for sending a request to server for each file requested by user and not listed in the broadcast timetable (col. 4, lines 7-56);

a reception control coupled to said request manager for determining transmission time and channel of each file requested by user and further coupled to said channel selector for providing downloading of the file at the time and from the channel of its transmission (col. 4, lines 7-56; Fig. 4C); and

a user output interface for presenting downloaded files to user (col. 9, lines 2-11).

Although obvious to one of ordinary skill in the art, Kusaba does not specifically disclose a file storage for storing downloaded files. Wright teaches a file storage for storing downloaded files in order to provide the user with continued access to the data after download and increase the speed of user access to the data (col. 4, lines 54-64; col. 6, lines 4-36). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kusaba by using a file storage for storing downloaded files in order to provide the user with continued access to the data after download and increase the speed of user access to the data, as taught by Wright above.

16. As for claim 6, Kusaba discloses the system as defined in claim 5; and

further comprising a receiver coupled with said communication link for receiving data addressed to client (col. 3, lines 48-65).

*Conclusion*

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US 2001/0047419 A1, note abstract;

US 6,477,707 B1, note teaches transmitting Internet files via satellite link;

US 5,949,071, note abstract;

US 6,757,912 B1, note customizable channel parameters;

US 6,594,682 B2, note client-based scheduling;

US 6,665,659, note Fig. 1;

US 6,625,643 B1, note abstract;

US 5,991,306, note caching of subscriber content;

US 5,961,602, note abstract.


18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron C Perez-Daple whose telephone number is (571) 272-3974. The examiner can normally be reached on 9am-5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

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about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 11/12/04  
Aaron Perez-Daple

  
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